

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Oscar Cruz, Mynor Polanco, Carlos Vasquez, and German
DeJesus Portillo

Plaintiff(s),

-against-

Demarco Bros Landscaping & Tree Service Corp d/b/a
Frank Giovinazzo Tree Service d/b/a Frank Giovinazzo
North Shore Tree Service d/b/a North Shore Tree Service,
and Theodore Passelis,

Defendant(s).

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)
) **Case No. 2:23-cv-9200**
) **(GRB)(ARL)**

) **PLAINTIFFS' SECOND**
) **REQUEST FOR**
) **PRODUCTION OF**
) **DOCUMENT AND**
) **SECOND**
) **INTERROGATORIES**
) **TO DEFENDANTS**

INTRODUCTION

Please furnish complete documents and answers on or before July 28, 2025, as agreed to between the parties and directed by the Court.

DEFINITIONS AND INSTRUCTIONS

“The full text of the definitions and rules of construction set forth in paragraphs (c) and (d) [of Local Rule 26.3] is deemed incorporated by reference into [the following] discovery requests.” Local Civil Rule 26.3(a).

Relevant Time Period. The relevant time period means the six-year period preceding the filing of the complaint (from December 15, 2017) to the present time. Unless otherwise specified each interrogatory covers the relevant time period.

“Plaintiffs” means Oscar Cruz, Mynor Polanco, Carlos Vasquez, and German DeJesus Portillo.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

Please produce all “Payroll Sheets” for the relevant time period.¹ *See* Passelis Dep. 20:25-21:4 and 21:21-22:7.

REQUEST FOR PRODUCTION NO. 2:

Please produce all documents, including emails, text messages, or any other document concerning the beginning of the workday or the end of the workday for employees during the relevant time period.² *See* Passelis Dep. 59:23-60:14.

REQUEST FOR PRODUCTION NO. 3:

Please produce all text messages between you and each of the Plaintiffs during the relevant time period.³ *See* Passelis Dep. 61:10-61:17.

REQUEST FOR PRODUCTION NO. 4:

Please produce all documents concerning the employment of each Plaintiff, including, but not limited to:⁴

1. I-9 employment eligibility verification form;
2. W-4 federal tax collection form
3. IT-2104 New York state tax withholding form;
4. Notice of Pay Rate as required by NYLL 195(1);
5. Copies of all forms of identification furnished by the Plaintiffs to you.

¹ These should have been produced in response to the Courts’ FLSA Discovery Order and Plaintiff’s First Request for Production of Documents.

² As these documents reflect the beginning and ending of the workday, they should have been identified and produced in response to Plaintiff’s First Request for Production of Documents and First Set of Interrogatories as well as the Court’s FLSA Discovery Order.

³ As these text messages reflect the days on which the Plaintiffs were scheduled to work, they should have been identified and produced in response to Plaintiff’s First Request for Production of Documents and First Set of Interrogatories.

⁴ These were previously requested in Plaintiff First Request for Production of Documents and should have been already produced.

REQUEST FOR PRODUCTION NO. 5:

Please produce all records of the hours that employees work, when they want off sick, and their sick days. *See* Passelis Dep. 13:16-13:18.⁵

REQUEST FOR PRODUCTION NO. 6

Please produce all records of all money paid to the Plaintiffs. *See* Passelis Dep. 13:18-13:22.

REQUEST FOR PRODUCTION NO. 7

Call detail reports for each cell phone number you used to communicate with employees of DeMarco covering the entire relevant time period. *See* Passelis Dep. 86:7-87:14

REQUEST FOR PRODUCTION NO. 8

A copy of all documents, electronically stored information, and tangible things that you have in your possession, custody, or control concerning the claims or defenses asserted in this action.⁶

INTERROGATORIES

Interrogatory No. 1

For each prior claim or lawsuit that you believe was asserted by each Plaintiff, please state: who asserted the claim, whether the claim was asserted individually or with others, the date of the claim, the nature of the claim (unpaid wages, overtime, personal injury, etc.), the individuals and/or employers against whom the claim was asserted, the case number or index number or other identifying number of each said claim, if applicable, and how the claim or case was resolved.

⁵ These should have been produced in response to the Courts' FLSA Discovery Order and Plaintiff's First Request for Production of Documents.

⁶ This should have been automatically produced pursuant to Fed. R. Civ. P. 26(a)(1)(A)(ii).

Interrogatory No. 2

State the name, the address and telephone number of each individual likely to have discoverable information—along with the subjects of that information—that the concern the claims or defenses asserted in this action.⁷

Interrogatory No. 3

Identify each witness that you may call to testify at trial and briefly information believed to be known or possessed by each witness. *See* Passelis Dep. 107:4-107:7.

Dated: Huntington, New York
July 3, 2025

Moser Law Firm PC

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TO: All counsel of record (via email)

⁷ This should have been previously produced pursuant to Fed. R. Civ. P. 26(a)(1)(A)(i).